

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MCC IOWA, LLC, d/b/a MEDIACOM; PHALANX TECHNOLOGY HOLDINGS, LLC, d/b/a fyreSTORM CABLE & FIBER, INC.; ALLIANCE TECHNOLOGIES, INC.	DOCKET NOS. VCA-2008-0002, CERTIFICATE NO. C-0002; VCA-2009-0004, CERTIFICATE NO. VC-0005; AND VCA-2013- 0007, CERTIFICATE NO. VC- 0022
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ORDER PROVIDING NOTICE AND REQUIRING RESPONSE

(Issued September 21, 2015)

On September 1, 2015, the City of Iowa City (Iowa City) filed with the Utilities Board (Board) an "Application of City of Iowa City for Issuance of Notice Under Section 477A.3(6)(b)" (Application for Notice). Iowa City asks the Board to issue a notice, pursuant to Iowa Code § 477A.3(6)(b), to MCC Iowa, LLC, d/b/a Mediacom (Mediacom), the incumbent cable provider in Iowa City, requiring Mediacom to comply with the terms of the municipal franchise agreement previously in place between Iowa City and Mediacom within 90 days of the notice.

Iowa City explains that in 2005 Iowa City and Mediacom entered into a municipal franchise agreement that would expire in August 2018. On the basis of Iowa City's Application for Notice and the Board's records, it appears that Mediacom complied with the terms of the municipal franchise agreement until October 2, 2013. After receiving notice from a competitive provider, Alliance Technologies, Inc. (Alliance), that Alliance had applied for a certificate of franchise authority from the Board to provide service in Iowa City, Mediacom filed a notice of service area

revision to modify the service area under the certificate of franchise authority it had previously received from the Board to include Iowa City.¹

Iowa City seeks to have Mediacom comply with the terms of the municipal franchise agreement. Iowa City points out that there is no competitive service provider in Iowa City. Iowa City explains that the Board has revoked the certificates it issued to the two competitive providers that had applied to serve Iowa City.

On May 13, 2015, in response to Iowa City's "Application of City of Iowa City to Terminate Certificate" in Docket No. VCA-2013-0007 and pursuant to Iowa Code § 477A.3(6)(a), the Board revoked the certificate it had issued to Alliance (Certificate No. VC-0022) because Alliance failed to commence service within 12 months of the date the Board issued the certificate. Also, in this docket, the Board revoked the certificate of the other competitive provider that applied for a certificate of franchise authority to serve Iowa City. In response to the "Application of City of Iowa City to Revoke Certificate" filed in this docket on July 1, 2015, the Board revoked Certificate No. VC-0005 issued in 2009 to Phalanx Technology Holdings, LLC, d/b/a fyreSTORM Cable & Fiber, Inc. (Phalanx). Certificate No. VC-0005 authorized Phalanx to provide service in a service area Phalanx described as consisting of

¹ When a competitive service provider applies for a certificate of franchise authority from the Board to serve a municipality, Iowa Code § 477A.2(6) and the Board's rule at 199 IAC 44.5 allow an incumbent cable provider serving that municipality to opt out of the municipal franchise and apply for a certificate of franchise authority from the Board; the terms of the municipal franchise are replaced with the terms and conditions established in Iowa Code chapter 477A. The Board's records show that the Board issued Mediacom Certificate No. C-0002 in Docket No. VCA-2008-0002 on February 14, 2008. Mediacom added Iowa City to the service area associated with Certificate No. C-0002 by filing a "Notice of Service Area Revision" in Docket No. VCA-2008-0002 on October 9, 2013, as revised on October 16, 2013.

certain local telephone exchange service areas and 302 Iowa municipalities, including Iowa City. Iowa City alleged that Phalanx failed to commence operation of cable or video service in Iowa City. In support of both applications for revocation, Iowa City cited Iowa Code § 477A.3(6)(a), which provides that if

the holder of a certificate of franchise authority fails to commence operation of a cable system or video service network within twelve months from the date the application is granted, the board may determine that the applicant is not in compliance with the certificate of franchise authority and may revoke the certificate.

The Board's rule at 199 IAC 44.6(1) contains a similar provision. Pursuant to an order issued in this docket on August 10, 2015, Phalanx's Certificate No. VC-0005 was revoked effective August 31, 2015.

Iowa City's September 1 Application for Notice is brought pursuant to Iowa Code § 477A.3(6)(b), which provides that if a certificate is revoked under Iowa Code § 477A.3(6)

and if the franchise agreement previously in effect between an incumbent cable provider and the municipality would have remained in effect for at least a sixty-day period prior to expiration, the previous franchise agreement shall be reinstated for the remaining duration of the previous agreement. The incumbent cable provider shall comply with the terms of the prior franchise agreement within ninety days of notification by the board. This paragraph is applicable to an incumbent cable provider who has not been issued a certificate of franchise authority pursuant to section 477A.2, subsection 6, as of April 12, 2010.

Based on the assertions in Iowa City's Application for Notice, it appears that the provisions of Iowa Code §477A.3(6)(b) may apply to require Mediacom to comply with the terms of its previous franchise agreement with Iowa City. Mediacom, the

incumbent cable provider in Iowa City, had not been issued a certificate of franchise authority to serve Iowa City pursuant to Iowa Code § 477A.2(6) as of April 12, 2010. In other words, Mediacom did not expand its certificated service area to include Iowa City until October 2, 2013, and thus may be covered by § 477A.3(6)(b).

Within 20 days of the date of this order, Mediacom shall file a response informing the Board whether it intends to comply with the terms of the prior municipal franchise agreement or, if it does not intend to return to that agreement, its reasons for that decision. Depending on Mediacom's response, the Board may take further action including, but not limited to, docketing this matter for further investigation.

IT IS THEREFORE ORDERED:

As discussed in the body of this order, within 20 days of the date of this order, MCC Iowa, LLC, d/b/a Mediacom, shall file a response stating its position regarding compliance with the municipal franchise agreement with the City of Iowa City, Iowa.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Elizabeth S. Jacobs

ATTEST:

/s/ Trisha M. Quijano
Executive Secretary, Designee

/s/ Nick Wagner

Dated at Des Moines, Iowa, this 21st day of September 2015.